

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

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DIRECTOR

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IN REPLY REFER TO:

Board of Land and
Natural Resources
State of Hawaii
Honolulu, Hawaii

HAWAII

ISSUANCE OF DIRECT LEASE TO MID PAC PETROLEUM, LLC
KAWAIHAE HARBOR, KAWAIHAE 1ST, SOUTH KOHALA, ISLAND
OF HAWAII TAX MAP KEY: 3RD DIVISION, 6-1-03: PORTIONS OF 24

REQUEST:

Issuance of direct lease to Mid Pac Petroleum, LLC, to operate, use, maintain and repair an existing bulk fuel storage, bulk fuel transmission and distribution facility in the vicinity of Kawaihae Harbor.

LEGAL REFERENCE:

Sections 171-11, 35, 36, and Subsection 171-59(b), Hawaii Revised Statutes.

APPLICANT:

Mid Pacific Petroleum, LLC, a Delaware limited liability company, authorized to do business in the State of Hawaii.

LOCATION AND TAX MAP KEY:

Kawaihae Harbor, Kawaihae, South Kohala, Island of Hawaii
Tax Map Key: 3rd Division, 6-1-03: Portions of 24, as shown and delineated on the attached map exhibits labeled Exhibits "A" and "B."

LAND AREA:

1. Lease Lot 1, containing a land area of 35,121 square feet, more or less;

2. Non-Exclusive, Roadway Easement A, containing an easement area of 3,450 square feet, more or less;
3. Non-Exclusive, Pipeline Easement B, containing an easement area of 1,163 square feet, more or less;
4. Non-Exclusive, Pipeline Easement C, containing an easement area of 2,516 square feet, more or less; and,
5. Non-Exclusive, Pipeline Easement D, containing an easement area of 1,942 square feet, more or less.

ZONING:

State Land Use District:	Urban
County of Hawaii:	Industrial

LAND TITLE STATUS:

Section 5 (b) "ceded" lands of the Hawaii Admission Act.

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: YES ☐ NO ☒

CURRENT USE STATUS:

Subject public land presently encumbered by:

- Governor's Executive Order No. 1862, dated September 18, 1958, setting aside portions of the Kawaihae Harbor area to the control and management of the Department of Transportation, Harbors Division, for commercial maritime and maritime-related purposes.
- Revocable Permit No. H-04-2462, effective September 1, 2004 to the Applicant for storage and distribution of petroleum products in bulk.
- Revocable Permit No. H-06-2560, effective September 1, 2006 to the Applicant for two (2), non-exclusive easements for two (2) subsurface, six-inch diameter, fuel pipelines for transmission and distribution of petroleum products.

CHARACTER OF USE:

1. To operate, use, maintain and repair an existing bulk fuel storage, and bulk fuel transmission and distribution facility; and,
2. The right to conduct, after obtaining LESSOR's prior written approval, any other operation or activity, which is reasonably necessary or incidental to the conduct of LESSEE's bulk fuel storage and distribution operations.

TERM OF LEASE:

Seven (7) years.

LEASE COMMENCEMENT DATE:

To be determined by the Director of Transportation.

ANNUAL GROUND AND EASEMENT LEASE RENTAL:

Annual Rental for First Five (5) Years (Years 1 through 5): To be determined by an independent real property appraiser who is licensed by the State of Hawaii as a "Certified General Appraiser" whose services shall be: (a) contracted for by the Department of Transportation, Harbors Division; and (b) paid by the Applicant.

Annual Rental for Final Two (2) Years (Years 6 and 7): During each of the sixth (6th) through and including the seventh (7th) years of the Lease term, beginning upon the first day of the sixth (6th) year of the Lease term, LESSEE shall pay to LESSOR, for its occupancy and use of the Premises, an annual rental equal to the sum of the product of the annual rental for the fifth (5th) year of the Lease term and 115%.

PERFORMANCE BOND:

Koko'oha Investments, Inc. (a Hawaii domiciled corporation, and sole member and holding company parent of Applicant) shall furnish the Department of Transportation (DOT) Harbors Division, with a written corporate guaranty prior to the issuance of the seven (7)-year lease. Koko'oha Investments, Inc.'s corporate guaranty must remain in full force and effect during the entire term of the lease.

MINIMUM IMPROVEMENT REQUIREMENT:

None

CHAPTER 343, HRS - ENVIRONMENTAL ASSESSMENT REQUIREMENT:

Harbors Division made a determination that the Applicant is exempted from Chapter 343, HRS requirements regarding preparation and submittal of a Draft Environmental Assessment to the accepting agency (Department of Transportation) based on DOT's Exemption Class 1: "Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing." Harbors Division considered primary, secondary and cumulative impacts in making its determination.

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u>X</u>	NO <u> </u>
Registered business name confirmed:	YES <u>X</u>	NO <u> </u>
Good standing confirmed:	YES <u>X</u>	NO <u> </u>

REMARKS:

The Applicant is solely owned by Koko'oha Investments, Inc., a Hawaii domiciled corporation, and sole member and holding company parent of Mid Pac Petroleum, LLC. The subject land area is presently demised to the Applicant under two (2) month-to-month revocable permits (Revocable Permit No. H-04-2462, effective September 1, 2004 and Revocable Permit No. H-06-2560, effective September 1, 2006.)

The existing bulk fuel storage and distribution facility was initially developed and constructed/ installed by Kawaihae Terminals, Inc. under Territorial/State License No. 124 in 1958. License No. 124 was initially for a lease term of fifty (50) years, September 1, 1958 to and including August 31, 2008. However, by a mutual surrender and termination agreement by the then Licensee and DOT, said license was terminated effective August 31, 2004, and the aforementioned revocable permits were subsequently issued to the Applicant.

RECOMMENDATION:

That the Board authorize the Department of Transportation to issue a direct lease to Mid Pac Petroleum, LLC, subject to:

1. Terms and conditions herein outlined, which are by reference incorporated herein;

2. Such other terms and conditions as may be prescribed by the Director of Transportation to best serve the interests of the State; and,
3. Review and approval of the Department of the Attorney General as to the lease form and content.

Respectfully submitted,



BRENNON T. MORIOKA, Ph.D., P.E.
Director of Transportation

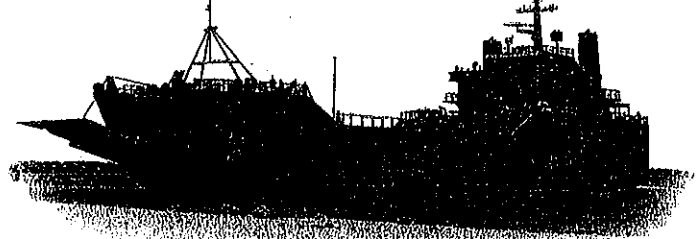
Attachments

APPROVED FOR SUBMITTAL:



LAURA H. THIELEN
Chairperson and Member

KAWAIHAE HARBOR



A landing ship-vehicle (LSV) ship ready to unload its cargo.

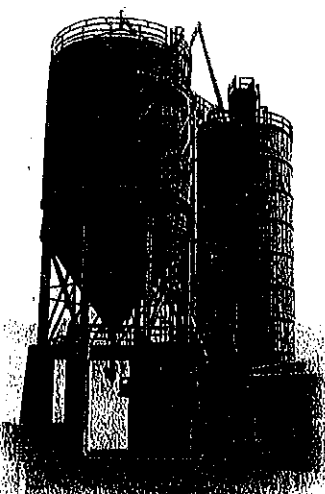
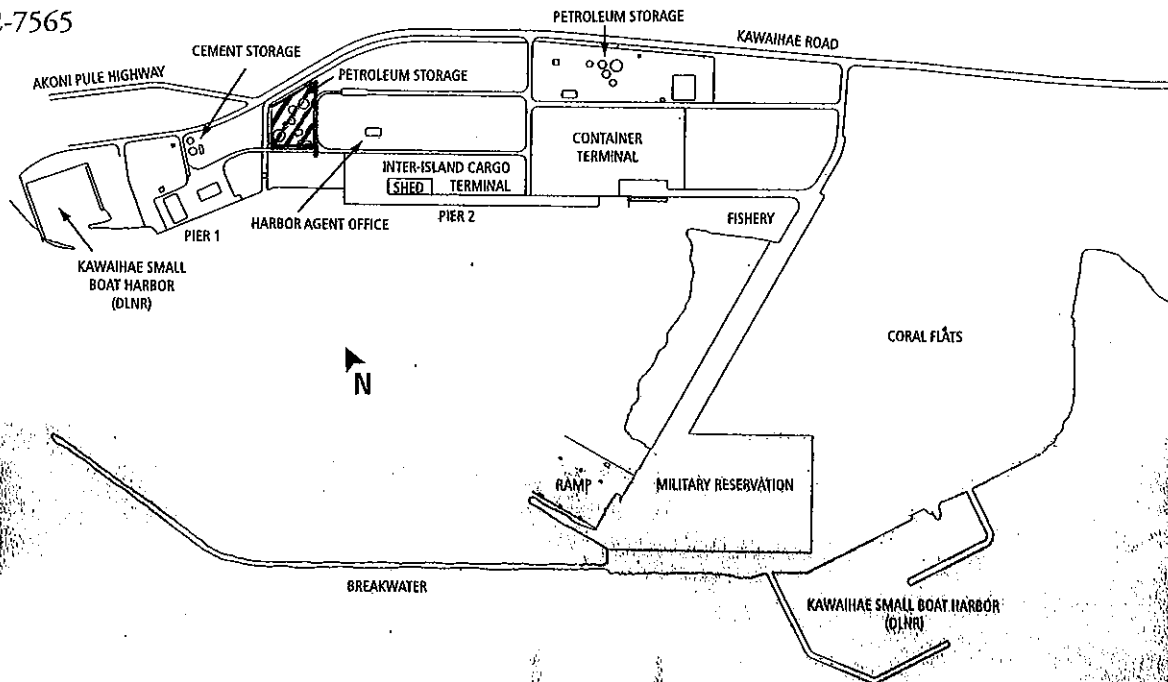
Kawaihae Harbor's basin measures some 1,450 feet by 1,500 feet with a depth of 35 feet. The entrance channel is 3,270-feet long, 500-feet wide and 40-feet deep. A 2,650-foot breakwater protects the harbor. Pier 2 and Kawaihae Harbor's main pier and it provides 1,150 feet of berthing space with water depths of 35 feet.

For more information on Kawaihae Harbor, please contact the Kawaihae Harbor Marine Cargo Specialist at:

Department of Transportation
Harbors Division
P.O. Box 44904
Kawaihae, Hawai'i 96743
Telephone: (808) 882-7565



Air Survey Hawaii Photo



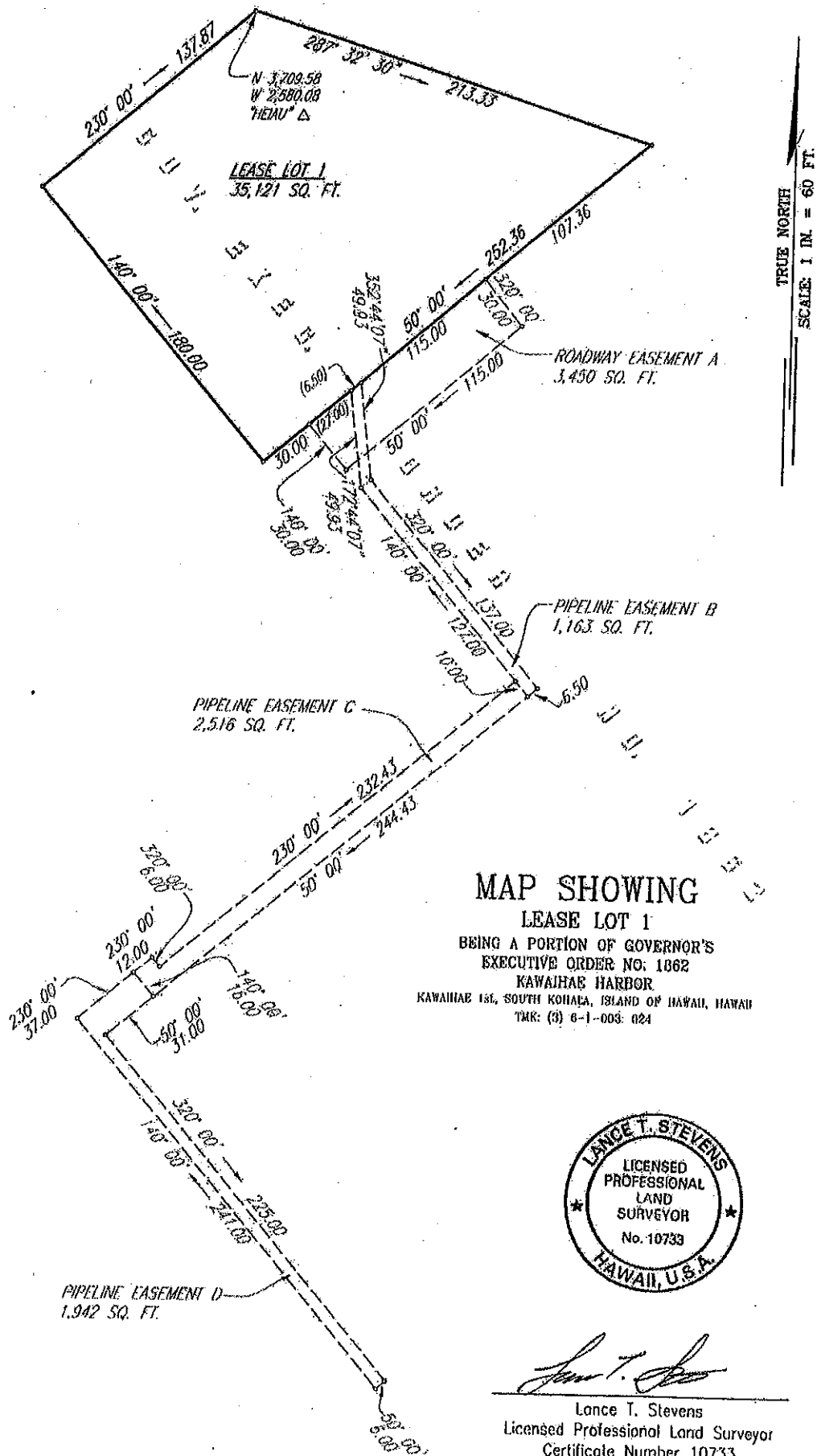
Cement storage near Pier 1.

KAWAIHAE HARBOR

PIER	BERTH LENGTH (feet)	YARD AREA (acres)	SHED AREA (sq. ft.)	DESIGN DEPTH AT PIER (feet) *	PRINCIPAL CARGO/PIER USE
1	412	4.6	8,300	20	Barges.
2	1,150	30.6	13,326	35	Liquid-bulk cargo and pipelines. Overseas containers and inter-island cargo, dry- and liquid-bulk cargos.

* For current depths, please contact the Harbors Division.

EXHIBIT "A"



CONTROLPOINT SURVEYING, INC.
1100 SOUTH KALO STREET, SUITE 1200
HONOLULU, HAWAII 96814

EXHIBIT "B"